



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/931,123	08/16/2001	Gary S. Foster	01985-P0040C	3575

24126 7590 04/06/2004

ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD, CT 06905-5619

EXAMINER

FELTEN, DANIEL S

ART UNIT	PAPER NUMBER
----------	--------------

3624

DATE MAILED: 04/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/931,123

Applicant(s)

FOSTER ET AL.

Examiner

Daniel S Felten

Art Unit

3624

MW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Receipt of the Response filed January 15, 2004 is acknowledged. Claims 1-28 remain pending and are presented to be examined upon their merits.

Response to Arguments

2. Applicant's arguments filed January 15, 2004 have been fully considered but they are not persuasive. The examiner maintains the rejections from the September 30, 2003 Office Action because of the following reasons:

The concept of "trade execution information" is equivalent to the data input into the computer by the customer that includes data describing the security involved in the transaction (see Nelson col. 1, line 39 to col. 2, line 25;). Since Nelson teaches that the transaction involves a security (an option), the definition of a "transaction" is consistent with the execution of an order to buy or sell a security (option) or commodity futures contract (see the Barron's Dictionary of Finance and Investment terms).

It is clear that the applicant has chosen to apply a more stringent standard to Nelson and Moy than to the limitations of "acceptable trade parameters". This is a reversal of their appropriate roles, as the Nelson and Moy are used as a teaching in light of the level of skill in the art. In particular, one of ordinary skill in the art would not know from the claims or the specification what the metes and bounds of what the

Art Unit: 3624

applicant considers "acceptable trade parameters" because it has not been clearly defined in the claims. Therefore the examiner has taken the broadest interpretation of the aforementioned limitation that is consistent with the teachings of Nelson and Moy.

It has been cited in Nelson comparison and matching features (see Nelson, col. 1, lines 48-55; and col. 9, ll. 29-41; and col. 15, ll. 41+).

Block level trade execution information was equated to block trade ticker of Moy in the previous Office action (see Moy, col. 5, ll. 64 to col. 6, ll. 37), wherein the block trade ticker, "identifies all trades which exceed ten thousand shares". Reasoning was given how Nelson would be modified by Moy to provide the missing feature. An artisan of ordinary skill in the art would understand the fact that the identification of block trades is the provision and/or recognition of information involved in the execution of the block trades, wherein the block trades or "trades" inherently involve the activity of commerce (ordering, matching and execution of orders to buy and/or sell securities and commodities). Thus such a modification would have been an obvious expedient well within the ordinary skill in the art.

Moreover, the rejections from the previous Office Action mailed September 30, 2003 are maintained. A courtesy copy of the September 30, 2003 Office Action is provided for the applicants' convenience.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson (US 4,823,265) in view of Moy (US 4,823, 265).

Nelson discloses, as in claims 1, 10, 15 and 24, an apparatus and method for facilitating the processing and management of a securities trade comprising:

A computer (see Nelson, figs. 1& 2, col. 3, ll. 4-19);

as also in claims 2, 5, 8, 9, 11-14, 25-28 trade execution information received by the computer, the trade execution information indicative of an executed trade supplied by a first trading party, and comprises software executed on the computer (see Nelson, col. 1, ll. 60-66), and comprising party supplied data elements concerning the conditions of the ordered trade itself (see Nelson, col. 1, ll. 60-66; col. 4, ll. 21+);

as also in claims 3, 4, 6, 7, 17, 18 trade allocation information received by the computer, the trade allocation information indicative of an ordered trade by a second trading party

Art Unit: 3624

(seller) and comprising trade data concerning one or more details of the ordered trade itself (see Nelson, col. 3 , ll. 7+);

a set of predefined acceptable trade parameters/profiles (see Nelson, figs. 4a-d, col. 3, ll. 5+; col. 4, ll. 21+); and

software for determining that a match exists if the trade data contained in execution information and the party supplied data elements correlate within the set of predefined acceptable trade parameters (see Nelson, col. 1, ll. 48-55; and col. 9, ll. 29-41; and col. 15, ll. 41+).

Nelson fails to disclose the limitation, as in claim 15, of software executing on the computer for determining block level trade execution information based upon the trade execution information and comparing the block level information with the block trade level order information.

Moy discloses a data processing program with a market monitoring service which uses a block trade ticker (bt) to identify all trades exceeding ten thousand shares (see col. 5, ll. 64 to col. 6, ll. 37).

It would have been obvious for an artisan at the time of the invention to integrate the monitor marketing software using the block trade ticker, as disclosed by Moy into the invention of Nelson because an artisan at the time of the invention would have recognized that the integration of aforementioned software to create a broader investment market for individual investors as well as provided a generalized view of the

Art Unit: 3624

current market being traded. Thus such a modification would have been an obvious expedient well within the ordinary skill in the art.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S Felten whose telephone number is (703) 305-0724. The examiner can normally be reached on Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (703) 308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3624

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DSF
April 1, 2004

Daniel S Felten
Examiner
Art Unit 3624



VINCENT MILLIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600